

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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JOSE COLON,

Plaintiff, 09 CV 8 (JBW)(CLP)

-against-

THE CITY OF NEW YORK, et al.,

Defendants.

x

-----x  
MAXIMO COLON,

09 CV 9 (JBW)(VVP)

Plaintiff,

-against-

**NOTICE OF MOTION  
TO DISMISS**

THE CITY OF NEW YORK, et al.,

Defendants.

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**PLEASE TAKE NOTICE** that, upon the Declaration of Amy N. Okereke dated August 4, 2009, and the exhibits annexed thereto, the memorandum of law dated August 4, 2009, and upon all prior pleadings and proceedings herein, defendant City of New York will move this Court before the Honorable Jack B. Weinstein, United States District Judge, at the United States District Court for the Eastern District of New York, located at 225 Cadman Plaza East, New York, New York, at a date and time to be determined by the Court, for dismissal of the complaints with prejudice, pursuant to Rule 12(b)(6) on the grounds that plaintiffs have failed to state a claim against the City of New York.

**PLEASE TAKE FURTHER NOTICE**, plaintiffs' opposition papers, if any, should be served on the undersigned no later than September 4, 2009; and

**PLEASE TAKE FURTHER NOTICE** that defendant's reply papers, if any, shall be served on plaintiffs by September 18, 2009.

Dated:           New York, New York  
                  August 4, 2009

MICHAEL A. CARDOZO  
Corporation Counsel of the  
City of New York  
*Attorneys for Defendant City of New York*  
100 Church Street, Room 3-142  
New York, New York 10007  
(212) 788-9790

By:

  
\_\_\_\_\_  
Amy N. Okereke  
Assistant Corporation Counsel  
Special Federal Litigation Division

**DECLARATION OF SERVICE BY MAIL**

I, AMY N. OKEREKE, declare, pursuant to 28 U.S.C. § 1746, under penalty of perjury that on August 4, 2009, I served the annexed DECLARATION OF AMY N. OKEREKE AND NOTICE OF MOTION upon the following counsel of record by depositing a copy of same, enclosed in a first class postage paid properly addressed wrapper, in a post office depository under the exclusive care and custody of the United States Postal Service, within the State of New York, directed to said counsel of record at the address set forth below, being the address designated by plaintiffs for that purpose:

Rochelle S. Berliner, Esq.  
118-21 Queens Boulevard  
Suite 504  
Forest Hills, New York 11375

Christina Andrea Hall, Esq.  
330 Cross Bay Blvd  
Far Rockaway, New York 11693

Dated: New York, New York  
August 4, 2009



AMY N. OKEREKE  
ASSISTANT CORPORATION COUNSEL